

# HOUSE BILL No. 1619

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-34-17; IC 36-1-4-1; IC 36-1-4-20.

**Synopsis:** Emergency override ordinance. Allows a county or municipality to adopt an ordinance requiring a video service franchise holder to install the equipment necessary to provide both audio and visual emergency information and instructions during an emergency or disaster period. Provides that a video service franchise certificate shall contain a statement that the authority granted by the certificate is subject to an emergency override ordinance adopted by a municipality or county.

**Effective:** Upon passage.

### Pierce

January 16, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1619

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-34-17, AS AMENDED BY P.L.1-2007,  
2 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 17. (a) Not later than fifteen (15) business  
4 days after the commission receives an application under section 16 of  
5 this chapter, the commission shall determine whether the application  
6 is complete and properly verified. If the commission determines that  
7 the application is incomplete or is not properly verified, the  
8 commission shall notify the applicant of the deficiency and allow the  
9 applicant to resubmit the application after correcting the deficiency. If  
10 the commission determines that the application is complete and  
11 properly verified, the commission shall issue the applicant a certificate  
12 of franchise authority. A certificate issued under this section must  
13 contain:  
14 (1) a grant of authority to provide the video service requested in  
15 the application;  
16 (2) a grant of authority to use and occupy public rights-of-way in  
17 the delivery of the video service, subject to:



(A) state and local laws and regulations governing the use and occupancy of public rights-of-way; and

(B) the police powers of local units to enforce local ordinances and regulations governing the use and occupancy of public rights-of-way; ~~and~~

(3) a statement that the authority granted under subdivisions (1) and (2) is subject to the holder's lawful provision and operation of the video service; **and**

**(4) a statement that the authority granted under subdivisions (1) and (2) is subject to an emergency override ordinance adopted by a unit under IC 36-1-4-20.**

(b) Except as provided in subsection (c) and sections 16(c) and 28 of this chapter, the commission may not require a provider to:

(1) satisfy any build-out requirements;

(2) deploy, or make investments in, any infrastructure, facilities, or equipment; or

(3) pay an application fee, a document fee, a state franchise fee, a service charge, or any fee other than the franchise fee paid to a local unit under section 24 of this chapter;

as a condition of receiving or holding a certificate under this chapter.

(c) This section does not limit the commission's right to enforce any obligation described in subsection (b) that a provider is subject to under the terms of a settlement agreement approved by the commission before July 29, 2004.

(d) The general assembly, a state agency, or a unit may not adopt a law, rule, ordinance, or regulation governing the use and occupancy of public rights-of-way that:

(1) discriminates against any provider, or is unduly burdensome with respect to any provider, based on the particular facilities or technology used by the provider to deliver video service; or

(2) allows a video service system owned or operated by a unit to use or occupy public rights-of-way on terms or conditions more favorable or less burdensome than those that apply to other providers.

A law, a rule, an ordinance, or a regulation that violates this subsection is void.

SECTION 2. IC 36-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all units.

(b) ~~Section Sections~~ **11 and 20** of this chapter ~~does do~~ not apply to townships.

SECTION 3. IC 36-1-4-20 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 2 UPON PASSAGE]: **Sec. 20. (a) As used in this section, "emergency  
 3 override" means the interruption of video programming  
 4 simultaneously on all analog or digital downstream channels with  
 5 an audio and visual message created to alert the franchise holder's  
 6 subscribers of an emergency or a disaster.**

7 **(b) As used in this section, "franchise holder" refers to a holder  
 8 of:**

9 **(1) a certificate of franchise authority issued by the Indiana  
 10 utility regulatory commission under IC 8-1-34-17; or**

11 **(2) a local franchise (as defined in IC 8-1-34-8) that is in effect  
 12 on April 29, 2009.**

13 **(c) A unit that is included, in whole or in part, in the service  
 14 area of a franchise holder may adopt an ordinance requiring the  
 15 franchise holder to install the equipment necessary to allow the  
 16 unit to provide both:**

17 **(1) audio and visual emergency information; and**

18 **(2) instructions to the franchise holder's subscribers;  
 19 during an emergency or a disaster through an emergency override.**

20 **(d) An ordinance adopted under this section may set forth rules  
 21 and procedures for the operation of the emergency override,  
 22 including activation points.**

23 **SECTION 4. An emergency is declared for this act.**

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